

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4 FRANCISCO VIDAL, *et al.*,

5 Plaintiffs,

6 v.

7 SHERIFF JOE LOMBARDO, *et al.*,

8 Defendants.
9

Case No. 2:19-cv-01578-RFB-EJY

ORDER

10 **I. DISCUSSION**

11 A. Plaintiff Cannot Represent Other Plaintiffs.

12 On September 9, 2019, Plaintiff Francisco Vidal, an inmate in the custody of the Nevada
13 Department of Corrections (“NDOC”), submitted a civil rights complaint under 42 U.S.C. § 1983.
14 (ECF No. 1-1). In his pro se complaint, Plaintiff Vidal included three additional plaintiffs. Pursuant
15 to 28 U.S.C. § 1654, pro se litigants have the right to plead claims on their own behalf and, as is
16 generally true, may not plead claims on behalf of others. *Cato v. United States*, 70 F.3d 1103, 1105
17 n.1 (9th Cir. 1995); *C.E. Pope Equity Trust v. United States*, 818 F.2d 696, 697 (9th Cir. 1987). As
18 such, if each additional plaintiff named in the complaint at ECF No. 1-1 wishes to pursue an action
19 in this Court, each plaintiff is required to file his or her own complaint in a new and separate case.
20 Each individual must also either file his/her own fully completed application to proceed *in forma*
21 *pauperis* or pay the full \$400 filing fee.

22 Plaintiff Vidal, and any individual named by Vidal who may file a new case with the Court,
23 must maintain a current address with the Court and keep such addresses updated. The Court notes
24 that pursuant to Nevada Local Rule of Practice IA 3-1, a “pro se party must immediately file with
25 the court written notification of any change of mailing address, email address, telephone number, or
26 facsimile number. The notification must include proof of service on each opposing party or the
27 party’s attorney. Failure to comply with this rule may result in the dismissal of the action, entry of
28 default judgment or other sanctions as deemed appropriate by the court.” Nev. Loc. R. IA 3-1.

1 B. Plaintiff Vidal's Failure To Pay The Filing Fee Or Submit IFP Paperwork.

2 On September 9, 2019, with Plaintiff Vidal's submitted his Complaint to the Court, but
3 neither paid the full \$400 filing fee nor filed an application to proceed *in forma pauperis*. Under 28
4 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court
5 may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full
6 \$400 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the
7 following documents to the Court:

- 8 (1) a completed Application to Proceed in Forma Pauperis for Inmate, this Court's
9 approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),
10 (2) a Financial Certificate properly signed by both the inmate and a prison or jail official
11 (i.e. page 4 of this Court's approved form), and
12 (3) a copy of the inmate's prison or jail trust fund account statement for the previous
13 six-month period.

14 The Court grants Plaintiff Vidal a one-time opportunity to file a fully complete application
15 to proceed *in forma pauperis* containing all three of the required documents or, in the alternative,
16 pay the full \$400 filing fee for this action on or before **June 8, 2020**. Absent unusual circumstances,
17 the Court will not grant any further extensions of time. If Plaintiff Vidal is unable to file a fully
18 complete application to proceed *in forma pauperis* with all three required documents or pay the full
19 \$400 filing fee on or before **June 8, 2020**, the Court will dismiss this case without prejudice and
20 Plaintiff Vidal may file a new case with the Court when Plaintiff Vidal is either able to acquire all
21 three of the documents needed to file a fully complete application to proceed *in forma pauperis* or
22 pay the full \$400 filing fee.

23 To clarify, a dismissal without prejudice means Plaintiff Vidal does not give up the right to
24 refile the case with the Court, under a new case number, when he has all three documents needed to
25 submit with an application to proceed *in forma pauperis*. Alternatively, Plaintiff Vidal may choose
26 not to file an application to proceed *in forma pauperis* and instead pay the full filing fee of \$400 on
27 or before **June 8, 2020** to proceed with this case. The Court will retain Plaintiff Vidal's civil rights
28

1 complaint (ECF No. 1-1), but the Court will not file the complaint unless and until Plaintiff Vidal
2 timely files a fully complete application to proceed *in forma pauperis* with all three documents or
3 pays the full \$400 filing fee.

4 **II. CONCLUSION**

5 For the foregoing reasons, IT IS HEREBY ORDERED that the Clerk of the Court shall send
6 Plaintiff Vidal the approved form application to proceed *in forma pauperis* by an inmate, as well as
7 the document entitled information and instructions for filing an *in forma pauperis* application.

8 IT IS FURTHER ORDERED that, if each additional plaintiff named in the complaint at ECF
9 No. 1-1 wishes to pursue an action in this Court, each plaintiff is required to file their own complaint
10 in a new and separate case and submit either their own fully complete application to proceed *in forma*
11 *pauperis* with all three documents or pay the full \$400 filing fee.

12 IT IS FURTHER ORDERED that on or before **June 8, 2020**, Plaintiff Vidal shall either pay
13 the full \$400 filing fee for a civil action (which includes the \$350 filing fee and the \$50
14 administrative fee) or file with the Court:

- 15 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this Court's
16 approved form (i.e. pages 1 through 3 of the form with the inmate's two signatures on
17 page 3);
18 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official
19 (i.e. page 4 of this Court's approved form); and
20 (3) a copy of the **inmate's prison or jail trust fund account statement for the previous**
21 **six-month period.**

22 IT IS FURTHER ORDERED that, if Plaintiff Vidal does not file a fully complete application
23 to proceed *in forma pauperis* with all three documents or pay the full \$400 filing fee for a civil action
24 on or before **June 8, 2020**, the Court will dismiss this action without prejudice and Plaintiff Vidal
25 may refile the case with the Court, under a new case number, when he has all three documents needed
26 to file a complete application to proceed *in forma pauperis* or pays the full \$400 filing fee.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS FURTHER ORDERED that the Clerk of the Court shall retain the complaint (ECF No.1-1) but will not file it at this time.

DATED: April 13, 2020


ELAYNA J. YOUCHAH
UNITED STATES MAGISTRATE JUDGE